

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7037

BILL NUMBER: HB 1562

NOTE PREPARED: Jan 19, 2015

BILL AMENDED:

SUBJECT: Professional Licensing Matters.

FIRST AUTHOR: Rep. Zent

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Conviction Reporting & License Renewal*- The bill requires individuals who hold professional licenses issued by the Professional Licensing Agency (PLA) to notify their respective professional licensing boards of any criminal convictions not later than 90 days after the entry of an order or judgement. The bill allows the PLA to delay issuing a license renewal for up to 120 days. (Current law allows up to 90 days.)

Funeral & Cemetery Board Matters- The bill removes provisions concerning matters voted on by the Funeral and Cemetery Board.

Hydrocodone Combination Products to Schedule II- The bill adds "hydrocodone combination products" to the list of schedule II controlled substances.

Tramadol Added to Schedule IV- The bill adds "tramadol" to the list of schedule IV controlled substances.

Civil Penalty- The bill creates a civil penalty for failure to complete or timely transmit a pregnancy termination form.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Conviction Reporting & License Renewal*- This provision would give the PLA and respective professional boards additional time to investigate and process pertinent information to the renewal of a professional license.

Hydrocodone Combination Products to Schedule II- Adding hydrocodone combination products to the Schedule II narcotic list could increase the possible number of narcotic felony offenses in a given year. The following table describes the penalties for Schedule II narcotic violations.

Felony Levels for Dealing by Weight (in grams)					
	Level 6	Level 5	Level 4	Level 3	Level 2
Schedule II Narcotics (IC 35-48-4-1)		Less than 1 gram	Between 1 and 5 grams or less than 1 gram and enhancing circumstances	Between 5 and 10 grams or between 1 and 5 grams and enhancing circumstances	More than 10 grams or between 5 and 10 grams and enhancing circumstances

Felony Levels for Possession by Weight (in grams)					
	Misdemeanor	Level 6	Level 5	Level 4	Level 3
Schedule II Narcotics (IC 35-48-4-6)		If less than 5 grams	Between 5 and 10 grams or less than 5 grams and enhancing circumstances	Between 10 and 28 grams or between 5 and 10 grams and enhancing circumstances	More than 28 grams or between 10 and 28 grams and enhancing circumstances

Enhancing circumstances include the following:

- A prior conviction for a drug violation.
- Committing the offense while possessing a firearm.
- Committing the offense on a school bus; or in, on, or within 500 feet of either school property or a public park while a person younger than 18 was reasonably expected to be present.
- Delivering or financing the delivery of the drug to a person younger than 18 or at least 3 years junior to the person.
- Manufacturing or financing the manufacture of the drug.
- Committing the offense in the physical presence of a child younger than 18, knowing that the child was present and might be able to see or hear the offense.

The following table illustrates the possible sentencing ranges by felony level.

Sentencing Ranges by Felony Level				
Level 6	Level 5	Level 4	Level 3	Level 2
6 to 30 Months	1 to 6 Years	2 to 12 Years	3 to 16 Years	10 to 30 Years

Tramadol Added to Schedule IV- Classifying Tramadol as a Schedule IV controlled substance would make persons who either unlawfully possess Tramadol or deal in Tramadol a new crime ranging from a misdemeanor to a Level 3 felony, depending on whether the person is convicted of illegal possession or dealing. Under current law, Tramadol is classified as a legend drug. Possession or unauthorized distribution

of a legend drug without a prescription is a Level 6 felony or a Level 5 felony if the person has a prior offense.

For possession, the following table illustrates the potential changes.

Possession of Tramadol		
	Current Law	If Schedule IV Drug
First-Time Conviction	Level 6 Felony	Class A Misdemeanor
Conviction with Prior Conviction	Level 5 Felony	Level 6 Felony (or enhancing circumstances IC 35-48-1-16.5)
Source	IC 16-42-19-27	IC 35-48-4-7

If the crime is dealing or illegal distribution of Tramadol, the following penalties would apply.

Dealing in Tramadol		
	Current Law	If Schedule IV Drug
First-Time Conviction	Level 6 Felony	Class A Misdemeanor to Level 3 Felony (depending on weight of drug)
Conviction with Prior Conviction	Level 5 Felony	Level 6 to Level 3 felony (or other enhancing circumstances IC 35-48-1-16.5)
Source	IC 16-42-19-27	IC 35-48-4-3

The following table illustrates the possible sentencing ranges by felony level.

Sentencing Ranges by Felony Level			
Level 3	Level 4	Level 5	Level 6
3 to 16 Years	2 to 12 Years	1 to 6 Years	6 to 30 Months

Civil Penalty- Professional Licensing Agency staff may have an additional workload associated with more investigations involving more physician penalty cases than current. It is likely, the current level of resources for the PLA would be sufficient to handle the additional workload.

Additional Information: DOC Offender Costs- The average expenditure to house an adult offender was \$19,497 in FY 2014. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,210 annually, or \$8.77 daily, per prisoner.

Explanation of State Revenues: *Conviction Reporting & License Renewal-* License and certification renewal fees are paid at the time of submitting an application for renewal. There should be no interruption in the reception of fee revenue to the state General Fund from license renewals as a result of this bill.

Civil Penalty- More civil penalties could be collected in a given state fiscal year as a result of this bill. The

maximum penalty that could be assessed under this provision is \$1,000 per violation. Revenue from physician civil penalties is deposited into the Physician Investigation Fund. As of June 30, 2014, the fund had received \$1,750 in physician fines.

Explanation of Local Expenditures: *Tramadol Added to Schedule IV-* Under current law, a person who possesses Tramadol without a prescription commits a Class B misdemeanor (IC 16-42-3-12) because Tramadol is considered to be a legend drug.

If Tramadol is reclassified as a Schedule IV controlled substance, then possession of Tramadol as a Schedule IV controlled substance would be a Class A misdemeanor if certain enhancing circumstances specified in IC 35-48-1-16.5 do not apply.

Explanation of Local Revenues:

State Agencies Affected: Professional Licensing Agency; Attorney General; Department of Correction.

Local Agencies Affected: Local law enforcement, trial courts.

Information Sources: Department of Correction; State Budget Agency: Auditor Trial Balance Report 6/30/2014.

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